Eight Mile Style, LLC et al v. Apple Computer, Incorporated

Doc. 40 Att. 5

EXHIBIT 4

April 18, 2008, 7:05 AM email from Richard Busch

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From: Richard Busch [rbusch@kingballow.com]
Sent: Friday, April 18, 2008 7:05 AM
To: Klaus, Kelly; Marc Guilford; Daniel D. Quick; Encinas, Kimberly; Pomerantz, Glenn
Cc: hhertz@hertzschram.com; Ramona DeSalvo; Eight Mile Corresp; FBT Corresp
Subject: RE: email

Kelly:

Here is the follow up to my email of the other morning:

(1) You asked whether we were seeking documents concerning the prior dispute with Apple concerning "Lose Yourself." We are not;

(2) You wanted to know if we had any artist agreeements in mind in connection with our request for such agreements from Apple. We don't have any specific artist in mind. To be clear, we are asking for any agreements in which Apple has direct contractual privity with a recording artist, songwriter, or publisher alone or in conjunction with a record company or other third party. We have no specific agreement in mind;

(3) You asked us to explain precisely what we want in connection with Interrogatory Number 14: We want to know every type of consideration, going in each direction, between Apple and Aftermath/Universal concerning services, data, materials or rights provided by Aftermath/Universal, not only with respect to the intellectual property itself embodied in sound recordings and musical compositions, but also with respect to any other services, data or materials provided, and rights granted, in conjunction with the sound recordings and musical compositions. For example, and without limitation, we want to know whether payments or other consideration was given to Aftermath and/or Interscope and/or Universal Music Group, whether in the form of cash, financial guarantees, advances, fees, royalties, promotional items, goods, services, marketing or advertising commitments, options or grants of stock, or other consideration, for such things as grants of exclusivity, creative services, data, artwork, catalog management, duplication, lyric print rights, synchronization rights, public performance rights, name and/or likeness rights, trademark, software or other intellectual property rights, administration of contracts and/or third party clearances and payments.

(4)You asked us about emails. We are searching for and will produce non-privileged emails we can locate;

(5) You asked whether the compositions identified in our response to your interrogatories are the only compositions at issue in this litigation. I will have an answer on this hopefully today;

(6) You asked us if there are any other copyright owners beyond the copyright claimants identified in response to our interrogatories. To the extent there are any other owners, we will produce documents containing that information;

(7) You asked whether we would relegate our request with respect to the controlled composition clause to Aftermath or whether we wanted examples of such evolution with respect to all Universal related entities. In the email the other day, I said we could start with Aftermath, but we would reserve our rights to demand all other Universal entities upon review of the Aftermath documents we produced. In speaking to my clients further about this, rather than do this two step production, we would be satisfied with a production of the responsive Aftermath agreements as well as examples from Interscope and any other joint venture labels with Interscope.

I believe this answers the questions I owed you. I am also revising interrogatory responses per our conversation, and will be producing additional documents shortly.

Please let me know when we can expect to receive the production of documents, and answers to the questions you owe me. As you know, we have depositions beginning week after next and we need your production as soon as possible.

Richard S. Busch
King & Ballow
315 Union Street
Nashville, TN 37201
(615) 259-3456
rbusch@kingballow.com

From: Klaus, Kelly [mailto:Kelly.Klaus@mto.com]
Sent: Thursday, April 17, 2008 7:51 PM
To: Marc Guilford; Daniel D. Quick; Encinas, Kimberly; Pomerantz, Glenn
Cc: Richard Busch; hhertz@hertzschram.com; Ramona DeSalvo; Eight Mile Corresp; FBT Corresp
Subject: RE: CORRECTION - RE: Eight Mile Style -- Stipulation to extend discovery

Here are our proposed edits, in clean and in redline.

From: Marc Guilford [mailto:mguilford@KingBallow.com]
Sent: Tuesday, April 15, 2008 1:07 PM
To: Klaus, Kelly; Daniel D. Quick; Encinas, Kimberly; Pomerantz, Glenn
Cc: Richard Busch; hhertz@hertzschram.com; Ramona DeSalvo
Subject: CORRECTION - RE: Eight Mile Style -- Stipulation to extend discovery

Counsel,

My email and attachment contained a mistake -- we are proposing moving the dispositive deadline to AUGUST 2, not July 2. Please note the corrected attachment. We are not suggesting shortening the time between the close of discovery and the due date for dispositive motions.

Apologies,

Marc R. Guilford
King & Ballow
315 Union Street, Suite 1100
Nashville, TN 37201
Phone: 615.726.5431
Fax: 615.248.2860

From: Marc Guilford
Sent: Tuesday, April 15, 2008 3:00 PM
To: 'Klaus, Kelly'; Daniel D. Quick; Encinas, Kimberly; Pomerantz, Glenn
Cc: Richard Busch; hhertz@hertzschram.com; Ramona DeSalvo
Subject: Eight Mile Style -- Stipulation to extend discovery

Kelly,

As we discussed in our call last week, attached is a stipulation and proposed order to extend discovery in the Eight Mile Style case to June 2, 2008 (the discovery cutoff date in the F.B.T. case). We would also propose extending the dispositive motion deadline a corresponding amount (i.e., about 2.5 weeks). The Scheduling Order (Doc. 20) currently has a dispositive motion cutoff as July 16 (two months after the May 16 discovery cutoff), and we suggest moving the dispositive motion deadline to July 2, 2008 to maintain this two month period.

Howard, our local counsel, has yet to ensure that this stipulation and proposed order are formatted according to local rules and may yet have changes solely having to do with formatting and appearance.

Please let us know of any changes you would like made or, if there are none, confirm that we may file this with your consent.

Thank you,

Marc R. Guilford
King & Ballow
315 Union Street, Suite 1100
Nashville, TN 37201
Phone: 615.726.5431
Fax: 615.248.2860